

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EDWARD ALVARADO, *et al.*,

No. C 04-0098 SI, No. C 04-0099 SI

Plaintiffs,

**ORDER RE: DEFENDANT'S MOTION  
FOR COUNTERCLAIM AND  
INTERPLEADER RELIEF**

v.

FEDERAL EXPRESS CORPORATION,

Defendant.

Defendant's motion for counterclaim and interpleader relief is scheduled for a hearing on October 7, 2010. Plaintiff and lienholders/claimants Mr. McCoy and Ms. Parker have filed responses to the motion. The parties and claimants appear to agree that the interpled amount should be limited to 40% of the deposited funds, and that the remaining 60% should be immediately distributed to Mr. Alvarado. Plaintiff's response also states that FedEx must deposit an additional \$1,439.96 awarded as costs on appeal, and that FedEx has agreed to deposit the additional amount; presumably the \$1,439.96 should also be immediately distributed to Mr. Alvarado.

In light of the fact that no one has objected to defendant's motion, the Court is inclined to vacate the hearing and grant the motion, and set a briefing schedule to resolve the competing claims to the interpled funds. If any party or claimant believes that a hearing on the motion is necessary, the party or claimant shall file a letter to that effect no later than **noon on October 5, 2010**. If the Court receives no requests to keep the motion on calendar, the matter shall be deemed submitted and the Court will issue an order shortly. Defendant is directed to file a proposed order no later than **October 7, 2010**.

**IT IS SO ORDERED.**

Dated: October 1, 2010



SUSAN ILLSTON  
United States District Judge